

# VICTIM RIGHTS & VICTIM ADVOCACY

The Victim Witness Program provides notice of case events and victim advocacy to hundreds of federal crime victims in Arizona. Last year, each of the five victim advocates averaged in excess of 80 active cases, many with multiple crime victims. The victim witness assistants have provided much needed relief in providing administrative support, opening cases and providing advocacy to Northern Arizona crime victims. Two student workers supplement these efforts. Recognizing our limits, we rely on cooperative support from state, tribal, federal and county victim assistance programs and law enforcement agencies throughout Arizona. These relationships are key to our success.

## U.S. ATTORNEY'S SERVICE AWARDS

During **National Crime Victim's Rights Week** the U.S. Attorney's Office held its annual commemoration ceremony. The ceremony focused on the office's responsibilities to federal crime victims and highlighted individual efforts to promote victims' rights. NASCAR Auto Zone Elite Division Southwest Series driver, Darrell LaMoore, received special recognition for traveling throughout the West profiling missing persons with larger-than-life images of the victims emblazoned on his race car. Dan Levy, Advisor to the Arizona Governor for Victims, a homicide survivor, provided an inspiring keynote address. In a moving ceremony, surviving family members remembered homicide victims. The U.S. Attorney recognized the following individuals for showing dedication and commitment to serving federal crime victims. Each recipient was nominated by his/her peers for acts of compassion and professionalism to crime victims:

- ***Eric McLaughlin and David Petersmarck, Special Agents, United States Department of Homeland Security, Immigration and Customs Enforcement:*** Special Agents McLaughlin and Petersmarck were the driving force behind an initiative to conduct child exploitation investigations in the Nogales office of the Department of Homeland Security, Immigration and Customs Enforcement. In a relatively short time and in a relatively new unit, Agents McLaughlin and Petersmarck initiated more than two dozen child exploitation cases, many culminating in arrests and prosecutions of individuals who pose a real danger to the nation's children. These arrests included three individuals who traveled to Nogales for the purpose of harming children and an individual in London who abused an infant and was engaged in exchanging child pornography over the internet. Prosecutors and fellow agents characterized Agents McLaughlin and Petersmarck as responsible, diligent, and hard-working.

# VICTIM RIGHTS & VICTIM ADVOCACY

- **Canada B. Valenzuela, Crisis Outreach Worker, Pascua Yaqui Tribe Victim Services Program:** Ms. Valenzuela is a member of the Pascua Yaqui Tribe. She began working for the tribe in July 2000 as a police officer because she wanted to work to keep her community safe. Three years ago, Ms. Valenzuela became a victim advocate because she felt strongly that she wanted to help the Yaqui people and, in particular, crime victims. While a police officer, she became convinced that crime victims need assistance and advocacy even after the police were no longer involved. She was transferred to the tribe's victim advocacy program at her request. Now, as a member of the tribe's "Walking in Balance Program", Ms. Valenzuela provides 24 hour on-call crime victim's assistance and she helped draft a victim's rights ordinance that the Tribe adopted in 2001.
- **Steven Dennis, Former Resident Manager of the Tucson Hilton El Conquistador Spa & Resort:** When the town of Summerhaven, Arizona was lost in the Aspen Fire, there were many people who were evacuated from their homes and they were not placed in a shelter. Mr. Dennis opened the doors of the Hilton El Conquistador out of genuine concern for these fire victims. These fire victims were permitted to stay at the resort for some time. That time was essential to permit them to make arrangements to get back on their feet.
- **David J. McIntyre, Jr., President and CEO of TriWest Healthcare Alliance:** In December, 2002, unidentified persons broke into a building housing the TriWest Corporate II Office and stole hard drives and related computer equipment. Upon receiving news of the break-in, Mr. McIntyre acted swiftly to assist investigators in determining the extent of damage and loss of information. The loss included individual enrollment information such as the names, addresses, social security numbers, birth dates and, in some instances, Active Duty Service Member information. Within days, TriWest worked with the Department of Defense to establish a plan to notify all affected persons. Mr. McIntyre personally called those whose credit card information was stolen. TriWest established an e-mail address and toll free number to enable beneficiaries to obtain information on the theft, built an infrastructure to handle the calls and disseminate information to beneficiaries on how to protect themselves from identity theft among other things. Mr. McIntyre announced that TriWest was posting a \$100,000.00 reward for information leading to the conviction of the responsible party or parties. Months later, Mr. McIntyre continued to follow up with the beneficiaries, issues press statements about the theft, and urged business leaders to inform their customers about identity theft. Today, he continues to sound the message of identity theft prevention.
- **Kari M. Marsh, Special Agent, Federal Bureau of Investigation:** Agent Marsh independently initiated and followed through with a complex investigation into Yahoo E-groups which were created for the purpose of sharing child pornography and discussing child sexual abuse. She was the second agent in the nation to undertake such an

# VICTIM RIGHTS & VICTIM ADVOCACY

investigation. The operation required her to gain the trust of the E-group leader. The work was long and tedious. Her hard work and diligence resulted in a major “takedown” of 42 targets from across the nation. Some of the targets had prior sex offense convictions, and at least one individual was referred for state prosecution on charges of child molestation. As a result of Agent Marsh’s patience and tenacity, many children across the nation were made safe.

- ***Steven Scrivner, U.S. Border Patrol Agent, Department of Homeland Security:*** On December 12<sup>th</sup>, 2003 Agent Scrivner encountered an injured female at the bottom of a ridge near a canyon. The female was unconscious and not breathing. Agent Scrivner performed CPR and successfully resuscitated her. He then applied first aid to her injuries. She had two, two inch long gashes on the back of her head. Emergency medical services arrived on the scene and the female was flown to Tucson where she received further treatment. Agent Scrivner’s use of CPR, despite the extreme remote conditions he found himself in, saved this young woman’s life.
- ***Michael Alexander, Special Agent, Federal Bureau of Investigations:*** Last summer, Agent Alexander volunteered to work full time on crimes against children on the Tohono O’odham Nation. He quickly assessed the resources available for this task and saw a need for an interviewing facility on the Nation. Child victims were being transported in excess of 50 miles each way to be interviewed in Tucson. In August, Agent Alexander requested funds from FBI Headquarters to fund a child forensic interviewing facility on the TO Nation. He prepared a thorough proposal, obtained letters of recommendation and created a detailed budget. On September 26, 2003 the project was approved but funding was not available. So, Agent Alexander worked hours to buy furniture, find a suitable building and drafted a memorandum of understanding between the Tohono O’odham Nation, the FBI and the Southern Arizona Child Advocacy Center.
- ***Colleen C. Hansen, Victim Specialist, Federal Bureau of Investigation:*** Federal, tribal, state and local law enforcement agencies turn to Ms Hansen for assistance with crime victims as part of her duties as a Victim Specialist with the FBI. But Ms. Hansen’s assistance goes beyond her employment. Last November, Jerry and Marlene Zaycheck, two out-of-town visitors, were crossing a road to go to their 48<sup>th</sup> wedding anniversary dinner when Mrs. Zaycheck was struck by a car and injured. Ms. Hansen came upon the scene and followed the ambulance to the hospital. While there, she aided Mr. Zaycheck with paperwork and arrangements for his wife to be flown to Phoenix. The next day, Ms. Hansen drove to Phoenix and spent the day with Mr. Zaycheck and his family. This is just one example of Ms. Hansen’s commitment to victims.
- ***Gabriel Maxwell, Victim Specialist, Federal Bureau of Investigations:*** In the short time that Mr. Maxwell has been with the FBI, he established an excellent working relationship with federal, tribal, state and local agencies involved with crime victims.

# VICTIM RIGHTS & VICTIM ADVOCACY

Despite being remotely located, he managed to always help fellow colleagues provide services to crime victims. In a recent double homicide case, Mr. Maxwell helped the victim's family recover an impounded vehicle. That vehicle was stolen from the deceased victim, driven to Phoenix, then Yuma, where it was impounded and accrued \$5000 in fees. Mr. Maxwell's diligence in traveling to and contacting the impound lot, the victim's insurance company, and various other state and local assistance agencies, resulted in the return of the vehicle to the family.

These individuals exemplify the true spirit of public service.

## SPECIAL EMPHASIS AREAS

**Amnesty for Cultural Items Returned::** On May 20, 2004, the United States Attorney announced a 90-day amnesty period to those who return specific Hopi and San Carlos Apache cultural items that are protected under the Native American Graves Protection Act ("NAGPRA"). The amnesty initiative was developed over the course of a year and in close consultation with Indian tribal cultural resource offices, tribal leaders and federal law enforcement and land management agencies responsible for responding to archeological and NAGPRA crimes. The U.S. Attorney's Offices in Utah, New Mexico and Colorado embraced this initiative because Four-Corners' region experiences one of the highest rates of archeological resource theft and damage and misappropriation of protected Indian cultural items. A joint initiative, the *Restore and Respect Heritage Campaign* was developed to educate the public about the value of these resources to our nation's heritage and to educate the public about the federal laws protecting them. A key aspect of the initiative was to obtain culturally protected items sought by tribes. Therefore, the U.S. Attorneys from Arizona, Colorado, New Mexico and Utah agreed to provide amnesty to those individuals who turned in specific items of cultural patrimony. During the 90-day period, federal and local law enforcement continue to gather intelligence and investigate ARPA and NAGPRA crimes. At the end of the 90-day period, each of the participating U.S. Attorneys will vigorously prosecute those who commit ARPA and NAGPRA offenses.

**Arizona Tribal Prosecutors' Association:** Last year, the Arizona Tribal Prosecutor's Association was re-vitalized and today has an active membership. Tribal Prosecutors from the Hopi Tribe, Navajo Nation, Pascua Yaqui Tribe and the Gila River Indian Community currently hold officer positions. In addition, active tribal participants include prosecutor's from the Yavapai-Camp Verde Nation, the Tonto Apache Nation, Hualapai, Ak-Chin and White Mountain Apache Tribe. The Association meets at least three times a year to discuss recent legal and legislative changes affecting their work locally and with their federal colleagues, and to share ideas and discuss topics that impact the performance of their duties. The Association fosters relationships and understanding among tribal and federal prosecutors responsible for addressing violent crime in Arizona's Indian Country.

# VICTIM RIGHTS & VICTIM ADVOCACY

**Update-Child Help USA Mobil Advocacy Unit:** A grant from the U.S. Department of Justice Victims of Crime Act Funds provided the money to establish the mobile center. Since October 2003, the mobile child advocacy center has served Northern Arizona by traveling throughout Northern Arizona Indian Country to provide approximately 31 individual forensic interviews of child victims and at least 10 medical examinations. The mobile center serves Chinle, Tuba City, Whiteriver, Second Mesa and areas in the Grand Canyon National Park. The mobile unit brings expert forensic interviewers and specialized medical personnel to an environment that is more familiar to the child. This minimizes the trauma experienced by many children who previously were required to travel long distances for these services. The mobile unit also saves resources and manpower previously spent by tribal and local service providers and law enforcement agencies in transporting children to and from urban areas to conduct these examinations.

**Border Related Offenses in Indian Country:** Because of its border with Mexico, the Tohono O'odham Nation experiences a large amount of both illegal alien and drug trafficking through the Reservation. In the past year, two major law enforcement initiatives were implemented that attacked this problem. In the summer of 2003, U.S. Attorney Paul K. Charlton organized Operation Desert Risk. Operation Desert Risk was a coordinated federal, state, local, and tribal law enforcement response designed to combat crime caused by aliens as they passed through the communities in the desert west of Tucson, including the Tohono O'odham Reservation. The operation also was designed to reduce the number of aliens who died from exposure in the desert. In 2004, law enforcement agencies of the U.S. Department of Homeland Security (Border Patrol and the Bureau of Immigration and Customs Enforcement) implemented the Arizona Border Control Initiative. This initiative is designed to reduce the number of aliens that illegally enter the United States by augmenting federal law enforcement resources in the border area. The following are examples of typical cases routinely handled on the Tohono O'odham Nation.

- ***United States v. Rogelio Orozco-Molinero.*** On March 25, 2004, the defendant plead guilty to seven counts of Alien Smuggling (including one involving death). The charges involved the transportation of a group of aliens through the desert in early March near Ajo, Arizona. One member of the group fell ill and died in the desert. On June 17, 2004, the defendant was sentenced to 57 months prison plus restitution in the amount of \$1,203.44 to send the decedent back to Mexico for burial. The investigation was conducted by U.S. Forest Service, U.S. Border Patrol and the Department of Public Safety.
- ***United States v. Geovanny Rubio-Anaya.*** On April 23, 2004, the defendant plead guilty to alien smuggling involving death of a 16 year-old Mexican National. The defendant tried to flee from law enforcement when officers came upon a group of illegal aliens climbing into the defendant's truck. During his attempt to flee from law enforcement, the defendant ran over and killed the minor after she fell out of the bed of the pickup

# VICTIM RIGHTS & VICTIM ADVOCACY

truck. Sentencing is scheduled to occur on August 13, 2004. Pursuant to his plea agreement, the defendant faces a term of prison ranging from 46 to 57 months plus restitution to send the decedent back to Mexico for burial. The investigation was conducted by U.S. Border Patrol, Tohono O'odham Police Department, and Customs.

- ***United States v. Leigh Miguel and Norman Johnson.*** On April 21, 2003 and April 22, 2003, Leigh Christina Miguel and Norman Jeremiah Johnson were sentenced to prison for their involvement in smuggling three children in the trunk of their vehicle. Ms. Miguel, the driver of the vehicle, was sentenced to 21 months prison. Mr. Johnson was sentenced to 37 months prison. Miguel and Johnson pled guilty to an indictment charging them with Conspiracy to Transport Illegal Aliens, Three Counts of Transportation of Illegal Aliens for Private Financial Gain and Placing in Jeopardy Life of Alien (for the three children found in the trunk) and Two Counts of Transportation of Illegal Aliens for Private Financial Gain. This case began on July 28, 2002, when the Pima County Sheriff's Department stopped Ms. Miguel's vehicle for expired registration. When the deputies approached the driver, they saw two adults lying across the back of the rear passenger seat as if trying to conceal themselves from the deputies' observation. As a deputy looked closer, he could see the head of a child lying in the trunk. Deputies had the defendant open the trunk and found three children, ages 4, 5 and 7 lying in the trunk. The deputies then called the United States Border Patrol to respond to the scene. The seven year old boy was unconscious and unresponsive to the deputies' attempts to wake him. An ambulance was called out and paramedics had to administer oxygen to revive the young boy. The young boy had been exhausted and dehydrated after walking two days through the desert and then placed in the trunk of the defendants' vehicle. At sentencing, the district court made specific findings that the seven year old boy had suffered injury and was a vulnerable victim. The United States Border Patrol was the investigating agency.

**U.S. Attorney Sponsored Training:** AUSAs routinely provide training for federal and tribal prosecutors, investigative agencies and behavioral health personnel to enhance our mutual understanding and responsibility when responding to matters arising in Indian Country. In the last year, individual AUSAs have provided training in the following areas: Federal Victims' Rights Laws, Policies and Procedures; The Law of Search & Seizure and Confessions; Prosecuting Civil Rights & Excessive Force Crimes; Sexual Assault Nurse Examiners; Sexual Assault Response Team Training; Federal Search and Seizure Law; Indian Country Criminal and Civil Jurisdiction; Indian Country Child Abuse Issues; and Establishing & Administering Child Abuse Multi-Disciplinary Teams in Indian Country. Additionally, the U.S. Attorney's Office hosted and participated in developing **Native American Issues: Domestic Violence Seminar**. This three-day seminar was funded by the U.S. Department of Justice to provide free training to a select number of tribal and federal